

**CITY OF PALMETTO  
CITY COMMISSION MEETING  
January 25, 2016  
7:00 PM**

Elected Officials Present:

Shirley Groover Bryant, Mayor  
Harold Smith, Vice Mayor, Commissioner, Ward 1  
Brian Williams, Commissioner, Ward 3  
Tamara Cornwell, Commissioner-at-Large 2  
Jonathan Davis, Commissioner-at-Large 1  
Tambra Varnadore, Commissioner, Ward 2—(Arrived at 7:53 p.m.)  
Brian Williams, Commissioner, Ward 3

Staff Present:

Mark Barnebey, City Attorney  
Jeff Burton, CRA Director  
Jim Freeman, City Clerk  
Allen Tusing, Public Works Director  
Scott Tyler, Chief of Police  
Amber Foley, Assistant City Clerk

Mayor Bryant called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

All persons intending to address the City Commission were duly sworn.

RECOGNITION: Mayor Bryant recognized Ray Dielman for his 11 years of service on the General Employees' Pension Board of Trustees.

RECOGNITION: Chief Tyler recognized Officer of the Year Tim Matthews.

RECOGNITION: Debra Woithe, City Planner, recognized the quarterly winners of the Curb Appeal Contest:

**3<sup>rd</sup> Quarter Winners:** Barbara Nelson, Stephen Furber, Ryan and Jane Alkire, Paula Shuman and Staff.

**4<sup>th</sup> Quarter Winners:** Ann Mobley, Dr. Hal E. Ott, and Barbara Fitzpatrick

1. CITY COMMISSION AGENDA APPROVAL

**Motion: Commissioner Cornwell moved, Commissioner Williams seconded, and the motion carried 4-0 to approve the January 25, 2016 Agenda. Commissioner Varnadore was absent for the vote.**

2. PUBLIC COMMENT

Leah Brown, Bright House, discussed the River Regatta Family Fun Zone sponsored by Bright House during the Regatta event on February 6<sup>th</sup>. Due to the event, the seawall construction will have to stop for approximately four days. She is asking Commission if they would consider extending the seawall construction contract for four days due to the event.

The consideration for Ms. Brown's request will be discussed during item 5 on tonight's agenda.

3. CONSENT AGENDA APPROVAL

A. Mayor's Office

1. 2016 Board Appointments

B. Clerk's Office

1. January 4, 2016 Minutes
2. Special Function Permits
  - a. Falcon 5K River Run
  - b. Zambelli Fireworks Display 2/6/2016
3. Blalock Walters Legal Invoices
4. Resolution 2016-02 Budget Amendment
5. Amendment to Historical Park Agreement

Commissioner Williams requested the removal of item 3.B.2.a and item 3.B.2.b for discussion.

Attorney Barnebey clarified that there is duplicate language in the Amendment to the Historical Park Agreement that will be removed before signed.

**Motion: Commissioner Williams moved, Commissioner Davis seconded, and the motion carried 4-0 to approve the January 25, 2016 Consent Agenda with the removal of the two Special Function Permits. Commissioner Varnadore was absent for the vote.**

Falcon 5K River Run Special Function Permit Discussion:

Commissioner Williams requested a copy of the road closure map once it is completed for this event. He expressed concerns about the City services requested and payment. Chief Tyler explained that officers will already be out for the Regatta event that occurs the same day so there is not a need for extra officers. The funding for officers working the Regatta and the 5K will come from the Regatta event as it did last year [revenue from event split equally between City of Bradenton and City of Palmetto]

**Motion: Commissioner Williams moved, Commissioner Smith seconded, and the motion carried 4-0 to approve the Falcon 5K River Run Special Function Permit. Commissioner Varnadore was absent for the vote.**

Zambelli Fireworks Special Function Permit Discussion:

Discussion: After approximately 4:00 p.m. the pedestrians on the Green Bridge will be asked to start exiting to either the Bradenton or Palmetto side. The concerts will begin and the set-up of the fireworks will start on the Green Bridge. The fireworks will go off at about 7:00 p.m. with a reopening of the bridge to pedestrian traffic soon after. The fireworks display is approximately 15 minutes long. Commissioner Cornwell expressed concerns with attendees knowing that the bridge will be closing for pedestrians during this time; she asked that some notification be given ahead of time so that they know they should go to the side of the bridge closest to where they parked.

**Motion: Commissioner Cornwell moved, Commissioner Davis seconded, and the motion carried 4-0 to approve the Zambelli Fireworks Special Function Permit. Commissioner Varnadore was absent for the vote.**

4. PUBLIC HEARING CU PERMIT 2015-02

This is a request for a Conditional Use Permit by Hot Spins 777, Inc. located at 1035 Hasko Road #102, Palmetto. Hot Spins 777, Inc. is proposing recreation and amusement services.

Mayor Bryant opened the public hearing.

Debra Woithe, City Planner, informed Commission that the current business has been at this location since 2010 and has a Conditional Use (CU) Permit for an internet/sweepstakes café that expired January 24<sup>th</sup>. The business no longer provides an internet/sweepstakes café; instead, it will offer "computerized skill games that pay in silver bars and miscellaneous gifts". The silver bars are said to be valued at approximately \$25.00. Mrs. Woithe stated that the existing CU Permit is for 870 square feet of space. The business has since expanded and is currently operating in 2,700 square feet of space.

Mrs. Woithe addressed the recent armed robbery and other incidents that have occurred at both this business as well as other businesses in the strip mall. A crime history of the strip mall and concerns of the Police Department regarding lax security practices has been provided in the agenda. Chief Tyler noted that the lax security practices include the front windows of the business being covered and the back door to the business being propped open or unlocked allowing access into the business. He discussed the robbery that occurred a few months ago, stating that it was reported two hours later by a customer that had been victimized. Chief Tyler said it is recommended that:

- the front windows and doors to the business are opened up to allow natural surveillance into and out of the business,
- to keep the back doors closed and secured,
- install a wide-angle peep hole in the back door,
- make sure the silver bars are secured in a drop safe or other secure device,
- ensure that there are proper cash handling practices in place,
- make sure that both the front and back doors are covered by the security cameras and that employees can access the cameras from inside the business to aid in identifying threats before opening the doors,
- install mag logs on the front door so customers can be screened and allowed in remotely by the staff.

Mrs. Woithe explained that the business owner requested zoning approval from the City on an application for a new alcoholic beverage license through the Department of Business and Professional Regulation (DBPR) Division of Alcoholic Beverages and Tobacco. Zoning approval was granted on December 4<sup>th</sup> because liquor stores are an allowed use in the Commercial Heavy Industrial zones. The application is for an IAPS license, which is retail sale of beer for consumption off site. A state DBPR license of some type is required for amusement game businesses

According to the City Code of Ordinances, all sites for recreation and amusement services shall front on a principal arterial roadway, and shall utilize such arterial roadway as the primary access for the site. This property does not front on a principal arterial roadway. Mrs. Woithe explained that the business is adjacent to a property that fronts a principal arterial (10<sup>th</sup> Street West) and is approximately 215 feet from 10<sup>th</sup> Street. The only point of entry for the business (Hasko Road) is accessed from 10<sup>th</sup> Street or through the Walmart parking lot, which is also accessed from 10<sup>th</sup> Street. The City Code does allow for a waiver in Section 15.4.B.3 which states "in connection with the approval of any special permit under this section, the approving authority may waive or modify any nonprocedural requirement of the use limitations or dimensional regulation of the district wherein located or any other nonprocedural requirements of this ordinance and where: a waiver of the conditional use non-procedural requirement for a recreation and amusement service to be located on a principal arterial roadway is necessary for approval of this conditional use permit." The City would need to issue a waiver if this Permit is approved.

Mrs. Woithe discussed parking stating that the existing CU Permit is for 870 square feet of space. The staff report that accompanied that application assumed the proposed use to have the same parking demand as a retail store which is one vehicle per 200 square feet of public space, therefore requiring five parking spaces. The business has since expanded and is currently operating in 2,700 square feet of space. During a December 9<sup>th</sup> staff site visit, there were about 50 computers in place on desktops. Given concern for surrounding businesses who receive spillover parking during peak times of use, it is recommended that the number of computers be reduced. The 9,788 square foot Palm Plaza I retail shopping center was approved for 49 parking spaces. Section 28-78 require the number of spaces as one parking space per 200 square feet. Mrs. Woithe explained that the business currently occupies 2,700 square feet which calls for 13.5 parking spaces; with the assumption of two computer skill game users per vehicle, 27 computer stations would fill the 13.5 parking spaces.

Mrs. Woithe stated that based upon the evidence submitted staff is recommending denial of the CU Permit, concluding that it is inconsistent with the Comprehensive Plan and the City's Code of Ordinances and the following findings:

- demonstrated history of criminal activity associated with the proposed use is adverse to the health, safety and welfare of the City, and as such, is inconsistent with Objective 1.4 of the Future Land Use Element of the Comprehensive Plan;
- demonstrated history of criminal activity associated with the proposed use make it incompatible with surrounding land uses;
- demonstrated history of criminal activity associated with the proposed use creates adverse impact on surrounding land uses that cannot be adequately safeguarded through stipulations;
- the applicant's violation of the prior CU approval and failure to report criminal activity to law enforcement raise doubt as to whether the purposes of the City Code can be adequately safeguarded through stipulations.

If the Commission chooses to approve the Conditional Use Permit, the following conditions are recommended:

1. Hours of operation no earlier than 8:00 a.m. and not later than 12:00 a.m.
2. Approval is tied to the property and will not transfer with the business owner
3. Approval shall expire in two years
4. Alcohol shall not be sold or consumed on premises
5. Storefront windows and glass doors shall not be covered or be obscured for security purposes
6. The applicant shall install and maintain a wide-angled peep hole in the rear exit door
7. The rear exit door shall remain closed except when in use for entry or exit, and shall not be propped open at any time
8. The number of computer skill game stations shall be limited to 27 to avoid exceeding the parking capacity of the shopping center

The Planning and Zoning Board met on December 17<sup>th</sup> and recommended, 3-1, to approve the Conditional Use Permit with the stipulations listed above with the exception that the time period of the Conditional Use be further limited to one year.

Mrs. Woithe informed Commission of the questions and discussion that occurred between the applicant and the Planning and Zoning Board and staff:

1. The applicant expanded the business (beyond that approved in the existing CU Permit) because her nail salon at that location was not doing well and the landlord would not let her out of her lease.
2. The reason the police were not called at the time of the burglary was that Ms. Colman was shaken and the power was not on at that time.
3. The reason the windows are darkened with fabric is to keep the sun from making the seats near the windows hot.
4. A restaurant license is an alternative to an alcohol license for permitting the business through the DBPR. Ms. Colman prefers not to be licensed for food service; however, she does provide food and drinks to customers for free to keep them comfortable.
5. Parking space availability on site should be noted going forward.
6. Concerns with lighting and that someone could walk in the back door of the business from the adjacent Walmart parking lot, as it has been stated that the back door is often left open.

Phalla Colman, applicant, addressed some of the concerns mentioned regarding security. She stated that she has taken down the fabric curtains covering the windows and leaves the back door closed and locked. She has security cameras and a silent alarm button like those in banks. She is trying to do everything she can to make the business safe for her customers. She respectfully requested Commission approve the CU Permit.

After no further public comment, Mayor Bryant closed the public hearing.

Chief Tyler expressed concerns regarding the business and the crimes and safety.

Commissioner Williams asked for clarification on the application for the Conditional Use where it says other ordinance and names internet or sweepstakes café. Mrs. Woithe stated it will be corrected to say games and amusement.

Mrs. Woithe clarified that there is not a specific waiver form for the waiver of the arterial road (as mentioned earlier). She said if the Conditional Use is granted then the waiver is inherited as part of that.

Commissioner Williams opined that a cell phone or phone in the business should be part of the conditions if this Permit is granted.

Commissioner Cornwell questioned how it will be monitored if the applicant will be selling alcohol at her business when technically she is legally permitted to do so by the state. Commissioner Smith opined that the City should not prohibit this business from selling alcohol when it is an allowable use in the zoning district and she is licensed to do so.

Commissioner Smith discussed the robbery that occurred as well as other security issues. Mrs. Woithe explained that there has been a history of these lax security issues that the Police Department has addressed. Discussion continued regarding the robbery, criminal activity in the area, and security issues.

Attorney Barnebey informed Commission that there should not be a vote taken tonight; he needs to prepare an order for this item. The Commission could, however, allow the business to operate while the order is being prepared and is brought to Commission at the February 1<sup>st</sup> meeting.

Mrs. Woithe explained the purpose of the Conditional Use. The other businesses in the strip mall where this business is located are an allowable use; this business is not, thus the need for a Conditional Use Permit.

Mr. Tusing stated that there is a Florida Statute that requires these types of businesses to have a minimum of 50 machines in order to be licensed. Mrs. Woithe will strike the 27 machines from the list of staff recommendations if approved.

Discussion continued regarding parking and the issues that may occur. Mrs. Woithe suggested that the business owner could reach out to a couple surrounding businesses to see if they could reach an agreement to use their parking lots for any spillover parking that may occur.

Mayor asked for consensus on the direction the Commission would like Attorney Barnebey to take. The consensus of Commission was to deny the Permit. Attorney Barnebey will draft an order of denial and bring back at the next Commission meeting on February 1<sup>st</sup>.

**Motion: Commissioner Cornwell moved, Commissioner Williams seconded, and the motion carried 5-0 to continue the public hearing on Conditional Use Permit 2015-02 to February 1, 2016 at 7:00 p.m. or as soon thereafter as same can be heard in these Chambers.**

#### 5. AMENDMENT TO CONTRACT FOR SEAWALL REPLACEMENT

Mr. Freeman explained that the payment terms for the approved contract with Quality Marine Construction called for a payment of \$100,000 within ten days of contract execution and the balance to be paid at the completion of the job. The City has made the one payment of \$100,000. The contractor is asking if the City would allow for one payment of \$90,000 in February and the final payment due at the end of the contract. Staff has no issues with this request.

Discussion regarding the request to extend the contract with Quality Marine Construction for an additional four days as mentioned at the beginning of the meeting continued. This is due to the Regatta event occurring on February 6<sup>th</sup>.

**Motion:**        **Commissioner Varnadore moved, Commissioner Williams seconded, and the motion carried 5-0 to authorize the Mayor to execute the First Amendment to the contract between the City of Palmetto and Quality Marine Construction executed on January 5, 2016 and include the extension of the contract for an additional four days (from 43 days to 47 days).**

6. DECEMBER CHECK REGISTER (informational only)

7. TRAFFIC UPDATE

Commissioner Davis commented on the joint meeting between Charlotte, Manatee, and Sarasota Counties at the MPO today. A bicycle/pedestrian trail was discussed and it was mentioned that there are grants for bicycle trails and the option to loan bicycles out to those wanting to use the trail.

8. DEPARTMENT HEADS' COMMENTS

Mr. Tusing—handed out the January report for the seawall construction

Mayor Bryant informed Commission that Chambers was recently painted a new color (subtle) by City staff.

Chief Tyler—informed Commission there were no criminal issues during the Fair, MLK Parade and the Multi-Cultural Fair; all went very well.

Chief mentioned that the Citizens Academy will be starting on March 1<sup>st</sup> with six sessions that go from 7:00 p.m. to 10:00 p.m. every Tuesday night in March.

Attorney Barnebey—complimented the Manatee County Fair and informed Commission that the Shake Pit put up a sign thanking the City of Palmetto for being a good host to the Fair.

9. MAYOR'S REPORT

Mayor Bryant was very pleased with the Fair, it was successful and well attended. She was very proud of the City of Palmetto fair booth that won a ribbon this year. She thanked staff for their hard work.

10. COMMISSIONERS' COMMENTS

Commissioner Williams—attended the ManSota League of Cities meeting last week and was appointed as Vice President for the Board.

He asked Mr. Tusing about the detour map for the Regatta event on February 6<sup>th</sup>. Mr. Tusing stated that once the road closure map is finalized, he will be provided with it.

Commissioner Cornwell—complimented the paint.

She questioned when the new recycle bins will be coming in. Mr. Tusing stated they should be phased in starting sometime next week.

Mrs. Cornwell commented on the Fair, the attendance was very good. She noted the drainage after the big storm, stating that it drained very quickly.

Commissioner Smith—thanked Chief Tyler and his officers for a great job during the MLK Parade and the Multi-Cultural Fair. He also thanked Mr. Burton and his staff for putting together a very nice Multi-Cultural Fair.

Mayor Bryant questioned what the policy is regarding when a homeowner empties out their house with a lot of garbage such as furniture, appliances, etc. Mr. Tusing stated that there is a charge by Waste Management to pick it up. The person emptying the house needs to contact Waste Management or the City so that Waste Management can provide a date and time for pick-up along with a price.

Commissioner Davis—complimented both the Manatee County Fair and the Multi-Cultural Fair.

Thanked Public Works staff for working on the drainage project.

He complimented the new paint in Chambers.

Commissioner Varnadore—apologized for arriving late.

She complimented Public Works staff for working on the drainage project and well drains, there has been a noticeable difference.

Mrs. Varnadore complimented the paint in Chambers.

Mayor Bryant adjourned the meeting at 9:10 p.m.

Minutes approved: February 22, 2016

*James R. Freeman*

James R. Freeman  
City Clerk